

## **LOCAL OPERATING PROCEDURES**

### **DETROIT, MICHIGAN**

#### PREAMBLE

These Local Operating Procedures are promulgated pursuant to the authority vested by 8 C.F.R. Section 3.40, and are intended as complements to the regulations set forth under Title 8 of the Code of Federal Regulations. These Local Operating Procedures are not to be applied inconsistently with any immigration laws or regulations.>

#### Procedure 1. Filing Procedures

A. All documents, applications, and written motions shall be filed by U.S. Postal Service, in person or other delivery service at the public window of the Immigration Court during regular business hours as posted in the Immigration Court.

B. In addition to complying with 8 *C.F.R. Sections 3.31 and 3.32*, all documents and applications shall be two-hole punched at the top of the page with holes 2 3/4 inches apart. All exhibits and documents exceeding five pages in length shall be paginated and shall have as a first page a table of contents with page number identification. The use of exhibit tabs with letter designation shall be required for all exhibits containing multiple documents.

C. All proposed exhibits and briefs shall be received in the Immigration Court no later than 14 calendar days prior to the scheduled Individual Calendar hearing unless otherwise authorized by the Immigration Judge and must be accompanied by a certificate of service on the opposing party. Non-conforming documents will not be accepted for filing and may be destroyed without notice to, or acknowledgment by the Court.

## Procedure 2. Trial Preparation

### A. At the Master Calendar Hearing:

1. The Immigration and Naturalization Service (INS) shall be prepared with all necessary documents to establish the deportability /removability of the respondent or to contest the admissibility of the applicants.

2. Respondent/Applicant shall be prepared to respond to the allegations contained in the Charging Document.

- Respondent/Applicant shall be prepared to indicate all applications for relief from deportation or exclusion sought.
- Respondent/Applicant and the INS shall be prepared to state (in hours) the estimated time needed to present the case at the Individual Calendar hearing.

### B. Written Pleading

A written pleading by the Respondent/Applicant containing the information in A. 2-4 above may be filed in advance with the consent of the Immigration Judge. Such pleading shall be accompanied by a proposed order, in triplicate, which includes blank space, for setting the future date of hearing and any applicable deadlines. Unless such order is signed by the Immigration Judge and received by the Respondent/Applicant in advance of the scheduled hearing, his/her presence is not excused and is required at the scheduled hearing.

### C. Evidence and Witnesses:

1. A witness list and all supporting documents must be filed with the Court no later than 14 calendar days prior to merits hearing.

2. If an expert witness is to be called at trial, a curriculum vitae or other documentation of his or her qualification must be submitted with the evidence list and documentary evidence.

3. Documents not received within 14 calendar days will not be considered or admitted and witnesses not listed will not be permitted to appear in the case in chief unless it can be established that the documents and witnesses are newly discovered, previously unknown, or previously unattainable.

4. Documents or witnesses may always be used for purposes of impeachment or rebuttal. However, unless timely filed, the assertions of documents or witnesses will only be considered for the purpose of impeachment or rebuttal.

D. At the Individual Calendar hearing:

1. The INS shall be prepared to state its position on all issues and applications for relief from deportation/removal/exclusion.

2. Both parties shall be prepared to present all remaining testimony and evidence on all issues, including rebuttal.

Procedure 3. Motions

A. Pre-Hearing Motions

1. All pre-hearing motions must comply with 8 *C.F.R.* 3.23, all pre-hearing motions will be decided on the basis of the written record unless the Immigration Judge determines that oral argument is necessary to make a decision on the motion. In the event that the Immigration Judge determines that oral argument is necessary, the pre-hearing motion will be placed on the Immigration Judge's next available Master Calendar no earlier than ten (10) days following its filing, except for emergency situations or for good cause shown.

2. Except for emergency situations or for good cause shown and except as otherwise ordered by the Court, all parties presenting pre-hearing motions relative to cases scheduled for Individual Calendar hearing shall file such motions with the Immigration Court no later than fourteen (14) calendar days prior to the date set for Individual Calendar hearing. Any party opposing such pre-hearing motion shall, no later than ten (10) days following service of such motion, file with the Court its written response to said motion. In the event no opposition or response to such pre-hearing motion shall have been filed within the response period, the motion shall be deemed unopposed.

#### B. Change of Venue:

A motion to change venue filed on behalf of a Respondent/Applicant shall be in writing and shall contain: (1) the reason for the change of venue; (2) Respondent/Applicant's plea to the allegations and charges contained in the charging document; (3) in deportation/removal cases, the designation of a country in the event of deportation/removal, or a declination to designate such a country; (4) the relief if any, sought by the Respondent/Applicant; and (5) the date and time of any scheduled hearing before the Court.

#### C. Withdrawal of Representation

A written motion to withdraw as counsel or legal representative shall be in writing and addressed to the Immigration Judge. Such motion shall describe; (1) the reasons for the request to withdraw; (2) efforts made to find alternative representation for the alien; (3) efforts made to notify the alien of any scheduled hearing before the Immigration Judge and of the necessity of the alien's appearance at such hearing; (4) a certificate of service upon the alien at the alien's current or last known address.

#### D. Substitution of Representation

A motion to substitute counsel or legal representation shall be in writing addressed to the Immigration Judge, and accompanied by an Notice of Entry of Appearance (Form EOIR-28). Such written motion is not necessary if substitute counsel or accredited representative is a member of the same firm or organization, of counsel to the firm, or appearing on behalf of the accredited representative or attorney of record.

#### E. Continuances

A party seeking a continuance of any scheduled Individual Calendar hearing before an Immigration Judge shall file a written motion for continuance no less than fourteen (14) calendar days prior to the scheduled hearing. The motion shall set forth the case name or Respondent/Applicant's name and file number, the name of the Immigration Judge before whom the matter is set, and the reason(s) that the continuance is requested. Unless notified by the Immigration Judge that the motion for continuance has been granted, all parties must attend the hearing and be prepared to proceed. A motions submitted less than 14 days prior to the hearing may be considered only with the consent and in the discretion of the Immigration Judge if the moving party is able to demonstrate the existence of emergency or unusual circumstances.

#### Procedure 4. Access to Administrative Offices

Access to administrative offices of the Court shall be limited to the Judges, security personnel and employees of the Court. Parties appearing before the Court or conducting business with the court will not be provided with access to telephones, photocopying machines, or other equipment within such offices.

#### Procedure 5. Waiver

An Immigration Judge may waive these rules in the interests of justice or for good cause shown.